

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1205 of 1996

in

SPECIAL CIVIL APPLICATION No 2398 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL and
MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

NIRMAL LAND CORPORATION

Versus

UNION OF INIDA

Appearance:

MR MB GANDHI for Appellant
MR JAYANT PATEL for Respondent No. 1, 2

CORAM : MR.JUSTICE J.M.PANCHAL and
MR.JUSTICE A.L.DAVE

Date of decision: 26/10/1999

ORAL JUDGEMENT (Per Panchal, J.)

#. By means of filing this appeal under Clause 15 of the Letters Patent, the original petitioner has challenged that part of the judgment of the learned

Single Judge dated August 21, 1996, rendered in Special Civil Application No.2398 of 1993, by which the prayer made by him to direct the respondents to pay arrears of rent with interest is rejected.

#. Heard the learned counsel for the parties at length. So far as the prayer made by the petitioner claiming interest on arrears of rent is concerned, we find that the learned Single Judge has exercised discretion of not granting interest to the owner of the property for arrears of rent. The exercise of the discretion cannot be said to be unreasonable or arbitrary so as to warrant interference by this Court in the appeal. In fact, the department could not pay the revised amount of rent because of non-availability of certificate from CPWD for which the department cannot be penalized. Having regard to the fair stand which was taken by the department, as is reflected in its letter dated March 19, 1996, we are of the opinion that the learned Single Judge was justified in not entertaining the prayer made by the owner of the property to direct the respondents to pay arrears of rent with interest. On overall view of the matter, we do not think that any error is committed by the learned Single Judge in not awarding interest to the owner of the property so far as arrears of rent are concerned. Under the circumstances, Letters Patent Appeal No.1205 of 1996 filed by the owner of the property claiming interest is also liable to be dismissed.

#. For the foregoing reasons, the appeal fails and is dismissed with no orders as to costs.

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